



0000128671

BEFORE THE ARIZONA CORPORATION COMMISSION

GARY PIERCE
Chairman

BOB STUMP

Commissioner

SANDRA D. KENNEDY

Commissioner

PAUL NEWMAN

Commissioner

BRENDA BURNS

Commissioner

Arizona Corporation Commission

DOCKETED

AUG 24 2011

DOCKETED BY

nr

IN THE MATTER OF THE APPLICATION
OF MCLEODUSA
TELECOMMUNICATIONS SERVICES,
INC. DBA PAETEC BUSINESS SERVICES
FOR A FINANCING ORDER
AUTHORIZING VARIOUS FINANCING
TRANSACTIONS

DOCKET NO. T-03267A-11-0233

DECISION NO. 72555

ORDER

Open Meeting
August 16 and 17, 2011
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On June 2, 2011, McLeodUSA Telecommunications Services, LLC d/b/a PAETEC Business Services ("PAETEC Business" or "Applicant"), filed an application seeking approval to participate in proposed new financing arrangements contemplated by its ultimate corporate parent, PAETEC Holding Corp., pursuant to Arizona Revised Statutes ("A.R.S.") § 40-285 and Arizona Administrative Code ("A.A.C.") R14-2-804. PAETEC Business has indicated that the financing arrangements require regulatory approval of PAETEC Business's participation in the financings no later than August 28, 2011. PAETEC requests that the Commission act expeditiously to grant requested approval of its application no later than the Commission's Open Meeting scheduled for August 16- 17, 2011.

...

...

1 Background of Applicants

2 **PAETEC Holding Corp.**

3 2. PAETEC Holding Corp. is a publicly traded Delaware corporation with principal
4 offices located at One PAETEC Plaza, 600 Willow Brook Office Park, Fairport, New York 14450.
5 PAETEC Holding Corp is the parent of PAETEC Corp., a Delaware corporation that indirectly
6 holds 100 percent of PAETEC Business. In Arizona, PAETEC Holding Corp has three wholly
7 owned subsidiaries that provide regulated communications services: PAETEC Business, PAETEC
8 Communications, Inc. and Talk America, Inc.

9 **McLeodUSA Telecommunications Services, LLC d/b/a PAETEC Business Services**

10 3. PAETEC Business is an Iowa limited liability company with principal offices
11 located at One Martha's Way, Hiawatha, Iowa 52233. PAETEC Business is authorized to provide
12 resold and/or facilities-based telecommunications services in 48 states and the District of
13 Columbia and provides integrated communications services, including local services, primarily in
14 20 Midwest, Southwest, Northwest, and Rocky Mountain states.

15 4. In Arizona, PAETEC Business is authorized to provide resold and facilities-based
16 local exchange and exchange access services pursuant to Decision No. 62627, granted on June 9,
17 2000. PAETEC Business is also authorized to resell interexchange telecommunications services
18 pursuant to Decision No. 61001, granted on July 16, 1998. PAETEC Business is a Class A
19 investor-owned public service corporation subject to the Commission's Public Utility Holding
20 Companies and Affiliated Interest Rules, A.A.C. R14-2-801 *et seq.*

21 The Proposed Transaction

22 The Applicant represents the following in its application:

23 5. The Commission authorized PAETEC Business to participate in up to \$600 million
24 in financing arrangements by PAETEC Holding Corp. on November 1, 2010, in Decision
25 No. 71942. Financing arrangements for \$450 million in senior notes have been completed.

26 6. On May 31, 2011, PAETEC Holding Corp entered into an agreement that provides
27 for a \$100 million term loan and a \$125 million revolving loan. The aggregate of \$225 million

28 ...

1 exceeds, by \$75 million, the unused portion of the financing already authorized by the
2 Commission in Decision No. 71942.

3 7. PAETEC Business seeks approval to provide a guaranty and related pledge of its
4 assets as security for an additional \$75 million in financing arrangements. PAETEC Business, and
5 certain of PAETEC Holding Corp.'s other subsidiaries, are expected to provide a guaranty and
6 related pledges of assets as security for the additional financing at closing or upon receipt of the
7 necessary approval, but in no event later than 90 days after closing.

8 8. PAETEC Holding Corp. anticipates using the proceeds from the additional
9 financing for one or more targeted acquisitions, as well as pay for transaction costs, finance new
10 capital expenditures and for working capital and other general corporate purposes.

11 9. PAETEC Business states in its application that prepaid customer funds and deposits
12 will not be encumbered as part of the security for the proposed financing and confirms that a
13 \$600,000 performance bond remains in place.

14 10. PAETEC Business published notice of its financing application in the Arizona
15 Republic on June 7, 2011. The corresponding affidavit was filed in docket control on June 13,
16 2011.

17 11. A.R.S. § 40-285 requires public service corporations to obtain Commission
18 authorization to "sell, lease, assign, mortgage or otherwise dispose of or encumber" certain utility
19 assets. The statute serves to protect captive customers from a utility's act to dispose of any of its
20 assets that are necessary for the provision of service; thus, it serves to preempt any service
21 impairment due to disposal of assets essential for providing service.

22 12. A.A.C. R14-2-804 requires that a utility will not consummate certain financial
23 transactions without prior approval of the Commission. The rule requires utilities to provide
24 information that allows the Commission to determine if transactions would impair the financial
25 status of the public utility, otherwise prevent it from attracting capital at fair and reasonable terms,
26 or impair the ability of the public utility to provide safe, reasonable and adequate service.

27 13. Based on its analysis of the proposed transaction, Staff has concluded that the
28 transaction would not impair the financial status of the Company, would not impair its ability to

1 attract capital, nor would it impair the ability of the Company to provide safe, reasonable, and
2 adequate service.

3 14. Staff had concluded that a pledge of the Applicants' assets would not impair the
4 availability of service to customers since the Applicant provides competitive services that are
5 available from alternative service providers.

6 15. Staff has recommended approval of the Applicant's request to provide a guaranty
7 and related pledge of assets as described in its application subject to the condition that all customer
8 deposits and prepayments be excluded from the proposed transactions.

9 16. Staff has further recommended that the Company file copies of the executed
10 security documents and copies of the loan documents with Docket Control, as a compliance item
11 in this matter, within 90 days of the execution of any financing transaction authorized herein.

12 CONCLUSIONS OF LAW

13 1. McLeodUSA Telecommunications Services, LLC d/b/a PAETEC Business
14 Services is a public service corporation within the meaning of Article XV of the Arizona
15 Constitution and A.R.S. § 40-285.

16 2. The Commission has jurisdiction over McLeodUSA Telecommunications Services,
17 LLC d/b/a PAETEC Business Services and the subject matter in this filing.

18 3. The Commission, having reviewed the filing and Staff's Memorandum dated
19 July 29, 2011, concludes that it is in the public interest to grant approval as proposed and discussed
20 herein.

21 ORDER

22 IT IS THEREFORE ORDERED that the application of McLeodUSA Telecommunications
23 Services, LLC d/b/a PAETEC Business Services seeking approval pursuant to A.R.S. § 40-285
24 and A.A.C. R14-2-804 to participate in proposed new financing arrangements contemplated by its
25 ultimate corporate parent, PAETEC Holding Corp. described herein, be and hereby is approved.


26 IT IS FURTHER ORDERED that McLeodUSA Telecommunications Services, LLC d/b/a
27 PAETEC Business Services be authorized to engage in any transactions and to execute any
28 documents necessary to effectuate the authorizations granted.

1 IT IS FURTHER ORDERED that the application of McLeodUSA Telecommunications
2 Services, LLC d/b/a PAETEC Business Services is subject to the condition that all customer
3 deposits and prepayments be excluded from encumbrance as part of the security for the proposed
4 financing.

5 IT IS FURTHER ORDERED that McLeodUSA Telecommunications Services, LLC d/b/a
6 PAETEC Business Services file copies of the executed security documents and copies of the loan
7 documents with Docket Control, as a compliance item in this matter, within 90 days of the
8 execution of any financing transaction authorized herein.

9 IT IS FURTHER ORDERED that this Decision shall be become effective immediately.

10 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

11 
12 CHAIRMAN

EXCUSED
COMM. STUMP

COMMISSIONER

13 
14 COMMISSIONER

15 
COMMISSIONER


COMMISSIONER

16 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
17 Executive Director of the Arizona Corporation Commission,
18 have hereunto, set my hand and caused the official seal of
19 this Commission to be affixed at the Capitol, in the City of
20 Phoenix, this 24th day of August, 2011.

21 
22 ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

23 DISSENT: _____

24
25 DISSENT: _____

26 SMO:AFF:lhmfJFW
27
28

1 SERVICE LIST FOR: McLeodUSA Telecommunications Services, Inc.
2 DOCKET NO. T-03267A-11-0233

3 Mr. Michael W. Patten
4 Roshka DeWulf & Patten, PLC
5 One Arizona Center
6 400 East Van Buren Street, Suite 800
7 Phoenix, Arizona 85004

8 Ms. Jean L. Kiddoo
9 Mr. Brett P. Ferencak
10 Bingham McCutchen LLP
11 2020 K Street, N.W., Suite 1100
12 Washington, DC 20006-1806

13 Mr. William A. Haas
14 Corporate Vice President of Public Policy & Regulatory
15 PAETEC Holding Corp.
16 One Martha's Way
17 Hiawatha, Iowa 52233

18 Mr. Steven M. Olea
19 Director, Utilities Division
20 Arizona Corporation Commission
21 1200 West Washington Street
22 Phoenix, Arizona 85007

23 Ms. Janice M. Alward
24 Chief Counsel, Legal Division
25 Arizona Corporation Commission
26 1200 West Washington Street
27 Phoenix, Arizona 85007
28